

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

SEAN D. RIES, JOHN R. MURRAY,
PHILIP C. HENRY, STEPHEN H.
WEDEL, and others similarly situated,

Plaintiffs,

v.

ALLMERICA FINANCIAL
CORPORATION, ALLMERICA
FINANCIAL LIFE INSURANCE AND
ANNUITY COMPANY, and
FREDERICK H. EPPINGER, JR.,

Defendants.

Civil Action No. 04-0898

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DEFENDANTS' MOTION TO TRANSFER

Pursuant to 28 U.S.C. § 1404(a), defendants Allmerica Financial Corporation and Allmerica Financial Life Insurance and Annuity Company (collectively "Allmerica") hereby move to transfer this case to the United States District Court for the District of Massachusetts (Worcester Division).¹ The grounds for this motion are set forth below and in the accompanying memorandum of law, affidavit, and supporting exhibit.

In support of this motion, Allmerica states as follows:

1. Venue is proper in the District of Massachusetts because "all defendants reside" in Massachusetts and a "substantial part of the events or omissions giving rise to the claim" occurred in Massachusetts. See 28 U.S.C. §§ 1391(a)(1), 1391(a)(2).

¹ Defendant Frederick H. Eppinger, Jr., who was President and Chief Executive Officer of Allmerica Financial Corp., does not oppose a transfer to Massachusetts, where he lives and works. In fact, a serious question may exist as to whether there is personal jurisdiction over Mr. Eppinger in Pennsylvania. All of the defendants will file motions to dismiss on or before July 23, 2004.


2. Transfer to Massachusetts would serve the convenience of the parties and the interest of justice because most of the relevant documents are located in Massachusetts, and current and former Allmerica personnel with knowledge of the programs and decisions that plaintiffs challenge are located in Massachusetts.

3. Transfer to Massachusetts will avoid duplicative class action litigation between the same parties, but in different states, because plaintiffs have filed a substantially similar class action in the District of Massachusetts against Allmerica. See *Speakman, et al. v. Allmerica Financial Life Ins. & Annuity Co., et al.*, C.A. No. 04-40077 (D. Mass.). A transfer would eliminate duplicative discovery and motion practice, and will foreclose potentially conflicting decisions concerning the rights of the parties and Allmerica's ability to run its business.

WHEREFORE, Allmerica respectfully requests that the Court transfer this case to the United States District Court for the District of Massachusetts (Worcester Division).

MANION McDONOUGH & LUCAS, PC

By:


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Dated: June 28, 2004

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AFFIDAVIT OF MICHAEL REARDON

I, Michael Reardon, upon oath hereby say as follows:

1. My name is Michael Reardon. I am currently employed as the President of Allmerica Financial Life Insurance and Annuity Company ("Allmerica"). I work at Allmerica's home office at 440 Lincoln Street, Worcester, Massachusetts 01653.
2. I have reviewed the complaint filed by Sean D. Ries, John R. Murray, Philip C. Henry, and Stephen H. Wedel against Allmerica in the Court of Common Pleas of Allegheny County, Pennsylvania, dated May 12, 2004.
3. I am familiar with the Allmerica products and practices alleged in the Complaint, including those relating to plaintiffs' sales of variable life insurance and annuities. Plaintiffs also make allegations about Allmerica's financial position and ratings (including by A.M. Best, Moody's, and Fitch) in 2002 and 2003, with which I also am familiar.

4. Most of the documents maintained by Allmerica that concern the topics addressed in paragraph three are located in Massachusetts; for example,

- Documents concerning Allmerica's employment of and relationships with plaintiffs and other members of the national class are located in Worcester, Massachusetts.
- Documents concerning plaintiffs' sale of non-proprietary products (and concerning the customers who purchased them) are located in Worcester, Massachusetts.
- Documents concerning the establishment and administration of Allmerica's commission programs are located in Worcester, Massachusetts; and
- Documents concerning Allmerica's financial position and ratings in 2002 and 2003 are located in Worcester, Massachusetts.

Most of the current and former Allmerica personnel with knowledge of the topics similarly worked or work at Allmerica's Worcester, Massachusetts office.

5. Allmerica's commission programs for the sale of variable annuities and life insurance were established and administered in its Worcester, Massachusetts office.



Michael Reardon

Dated: June 24, 2004